



FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PLAINTIFFS UNDER SEAL, :
:
v. : Civil Action No. 10-CV-3007
:
DEFENDANTS UNDER SEAL. :
:

THE GOVERNMENT'S NOTICE OF ELECTION TO INTERVENE
IN PART AND MOTION FOR AN EXTENSION
OF THE INTERVENTION DEADLINE

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Dated: December 16, 2013

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:
FLORIDA, GEORGIA, and	:
TENNESSEE	:
<u>ex rel.</u> GEORGE E. MILLER and	:
MICHAEL J. METTS,	:
PLAINTIFFS,	:
	:
V.	:
HEALTH MANAGEMENT	:
ASSOCIATES, INC.;	:
ROSY CITY, LLC;	:
ROSE CITY HMA, INC. d/b/a	:
LANCASTER REGIONAL MEDICAL	:
CENTER;	:
LANCASTER HMA, LLC;	:
LANCASTER HMA, INC. d/b/a	:
HEART OF LANCASTER REGIONAL	:
MEDICAL CENTER; and	:
PHYSICIANS ALLIANCE LTD.,	:
DEFENDANTS.	:

THE GOVERNMENT'S NOTICE OF ELECTION TO INTERVENE
IN PART AND MOTION FOR AN EXTENSION
OF THE INTERVENTION DEADLINE

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), the United States notifies the Court of its decision to intervene in part of this action and to request an extension of the intervention deadline in part of this action. The United States intervenes in the action against defendants Health Management Associates, Inc., and its subsidiaries. The United States hereby moves the Court for a 90 day extension of the time in which the United States can elect whether it will intervene in this matter as to Physicians Alliance Ltd.

The United States intends to file a motion renewing its request to the Judicial Panel on Multidistrict Litigation (Panel) that it transfer most of the *qui tam* cases against Health Management Associates, Inc., including this matter, to a single district within 30 days, and respectfully requests this Court stay further proceedings in this case pending the decision of the Panel on the United States' renewed motion for consolidation.

The Government requests that the relators' Complaint, relators' Substituted Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

The United States reserves the right to seek the dismissal of the relators' action or claim on any appropriate grounds, including under 31 U.S.C. §§ 3730(b)(5) and (e)(4).

A proposed order accompanies this notice.

Respectfully submitted,

STUART F. DELERY
Assistant Attorney General

/s
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Assistant United States Attorneys

Dated: December 16, 2013

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<u>ex rel.</u> GEORGE E. MILLER and	:	
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PLAINTIFFS,	:	
	:	CIVIL ACTION NO. 10-3007
V.	:	
	:	
HEALTH MANAGEMENT	:	
ASSOCIATES, INC.;	:	
ROSY CITY, LLC;	:	
ROSE CITY HMA, INC. d/b/a	:	
LANCASTER REGIONAL MEDICAL	:	
CENTER;	:	
LANCASTER HMA, LLC;	:	
LANCASTER HMA, INC. d/b/a	:	
HEART OF LANCASTER REGIONAL	:	
MEDICAL CENTER; and	:	
PHYSICIANS ALLIANCE LTD.,	:	
	:	
DEFENDANTS.	:	

ORDER

The United States having intervened in part in this action, pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4), the Court rules as follows:

IT IS ORDERED that,

1. the relators' Complaint, relators' Substituted Complaint, the Government's Notice of Intervention, and this Order be unsealed;
2. the Court hereby grants an additional extension of the deadline for the United States to elect whether to intervene as to defendant Physicians Alliance Ltd. until March 14, 2014;

3. all proceedings in this case are stayed until the Judicial Panel on Multidistrict Litigation rules on the United States' motion to transfer;
4. all other papers or Orders on file in this matter shall remain under seal; and
5. the seal shall be lifted on all matters occurring in this action after the date of this Order.

IT IS SO ORDERED,

This ____ day of _____, 2013.

United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:
FLORIDA, GEORGIA, and	:
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<u>ex rel.</u> GEORGE E. MILLER and	:
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MEDICAL CENTER; and	:
PHYSICIANS ALLIANCE LTD.,	:
DEFENDANTS.	:

MEMORANDUM BY THE UNITED STATES
IN SUPPORT OF THE APPLICATION FOR AN
EXTENSION OF THE INTERVENTION DEADLINE

The United States respectfully submits this memorandum in support of its application for a further extension of the intervention deadline in the above-captioned False Claims Act (FCA) *qui tam* action with respect to defendant Physicians Alliance Ltd. (PAL) until March 14, 2014.

I. Introduction and Background

In addition to this matter, there are currently eight other sealed FCA *qui tam* actions pending against Health Management Associates (HMA) and related defendants (collectively, the nine *qui tams* shall be referred to as the “HMA *qui tams*.”) The current seal and intervention

deadlines in the HMA *qui tams* are for the most part contemporaneous. The United States is filing its election decisions with respect to HMA and its subsidiaries in these *qui tams* on or about December 16, 2013, but is seeking more time as to some related defendants, including PAL.

Prior to this application, the Government solicited the views of PAL and relators concerning their positions on this extension application by the United States. PAL and relators advised that they concur in, or consent to, the intervention extension sought.

In light of the breadth and complexity of the allegations under investigation, the ongoing subpoena production by PAL, and the extraordinary volume of evidence to be reviewed, the Government is proposing that the intervention deadlines as to PAL be extended to March 14, 2014.

II. The Intervention Deadline Should Be Extended

The intervention deadline as to PAL should be extended in this action (a) due to the complex and evolving allegations that have been stated against PAL, (b) due to the diligent and ongoing investigative efforts that have been undertaken by the Government to date, and (c) in order to give the Government and PAL an opportunity to resolve that part of the matter without litigation.

The Government has conducted a coordinated, comprehensive investigation of HMA and related defendants that covers allegations stated in the *qui tams*, as well as additional allegations and issues that have come to light. Accordingly, the appropriate perspective for a Court with any one of the nine *qui tams* should include the entirety of the allegations that have now been stated against HMA and related defendants. Moreover, there has been a quantum increase in the number of issues under investigation as successive relators have added new or more

particularized allegations and identified other investigative leads based on their knowledge as HMA insiders.

In August 2012, the Office of Inspector General for HHS (OIG) issued a subpoena to PAL for documents and information relating to the allegations stated in the *qui tam* actions that HMA hospitals had paid remuneration to PAL and PAL physicians in violation of the Anti-Kickback Statute. The company has been producing documents on a rolling basis, but production is far from complete.

Furthermore, within the last extension period, experts the Government retained have conducted an analysis of the valuations that HMA used to support the asset swap agreement behind the joint venture agreement. Because this analysis appears to confirm relators' allegations, the Government approached PAL, and PAL's counsel has indicated that PAL is open to resolving this case without litigation. However, due to the complicated legal issues at stake, the parties have not yet agreed on a framework for resolution of PAL's potential liability. The Government therefore requests this 90 day extension of the intervention period in order to continue to work with PAL and its counsel towards reaching such a resolution and perhaps avoiding further strain on the Court's resources that would be caused by active litigation.

Accordingly, additional time is required for the Government to complete its review of an enormous amount of subpoenaed material, and for the parties to confer about the considerable and complex issues that are entailed by these cases.

Conclusion

PAL and relators advised that they concur in, or consent to, the intervention extension requested by the United States. For all the foregoing reasons, the United States respectfully requests that the Court extend the intervention deadline as to up to and including March 14, 2014.

Respectfully submitted,

STUART F. DELERY
Assistant Attorney General

/s
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CHARLENE K. FULLMER
Assistant United States Attorneys

Dated: December 16, 2013

CERTIFICATE OF SERVICE

It is hereby certified that on this date a copy of the foregoing Unopposed Application for an Extension of the Seal (without memorandum of law) was sent by United States mail, postage prepaid, to the following:

Marc S. Raspanti, Esq.
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
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Philadelphia, PA 19103



CHARLENE KELLER FULLMER
Assistant United States Attorney

Dated: December 16, 2013